

## CHAPTER 404

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**COURTS**


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**SENATE BILL 18-251**

BY SENATOR(S) Gardner and Lambert, Jahn, Lundberg, Moreno, Aguilar, Fields, Garcia, Guzman, Jones, Kagan, Kefalas, Marble, Martinez Humenik, Merrifield, Neville T., Priola, Tate, Todd, Williams A., Grantham;  
 also REPRESENTATIVE(S) Lee and Young, Hamner, Rankin, Singer, Becker K., Bridges, Buckner, Coleman, Exum, Foote, Gray, Herod, Hooton, Jackson, Kennedy, Lontine, Melton, Michaelson Jenet, Pettersen, Roberts, Rosenthal, Salazar, Valdez, Weissman, Winter, Duran.

**AN ACT**

**CONCERNING ESTABLISHING A STATEWIDE BEHAVIORAL HEALTH COURT LIAISON PROGRAM, AND,  
 IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, **add** part 2 to article 11.9 of title 16 as follows:

**PART 2  
 STATEWIDE BEHAVIORAL HEALTH COURT  
 LIAISON PROGRAM**

**16-11.9-201. Legislative declaration and intent.** (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(a) COLORADO'S CITIZENS WHO ARE LIVING WITH MENTAL HEALTH AND SUBSTANCE USE DISORDERS ARE OVER-REPRESENTED IN THE CRIMINAL JUSTICE SYSTEM, AND THEY ARE AT A SIGNIFICANTLY GREATER RISK OF INCURRING CRIMINAL JUSTICE INVOLVEMENT, LONGER TERMS OF INVOLVEMENT, AND HARSHER CONSEQUENCES OF THAT INVOLVEMENT WHEN COMPARED TO THE GENERAL PUBLIC;

(b) COLORADO MUST MAKE A COMMITMENT TO ENSURE THAT ALL INDIVIDUALS WITHIN THE CRIMINAL JUSTICE SYSTEM ARE TREATED FAIRLY AND HUMANELY, REGARDLESS OF THEIR BEHAVIORAL HEALTH HISTORY OR MENTAL STATE; AND

(c) THERE IS A SIGNIFICANT NEED FOR ENHANCED COMMUNICATION AMONG

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*Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

HEALTH CARE SYSTEMS, BEHAVIORAL HEALTH SYSTEMS, AND CRIMINAL JUSTICE ENTITIES, INCLUDING LAW ENFORCEMENT, DEFENSE ATTORNEYS, DISTRICT ATTORNEYS, JUDGES, AND PROBATION, TO FOSTER COLLABORATION THAT PROVIDES ALL INDIVIDUALS WITH A FAIR CHANCE OF LIVING A HEALTHY AND PRODUCTIVE LIFE.

(2) THE GENERAL ASSEMBLY FURTHER FINDS THAT:

(a) COLORADO HAS AN OBLIGATION TO ENSURE THAT ENTITIES WITHIN THE CRIMINAL JUSTICE SYSTEM ARE EQUIPPED WITH A GREATER UNDERSTANDING OF BEHAVIORAL HEALTH TREATMENT OPTIONS IN THE COMMUNITY; AND

(b) COMMUNITY MENTAL HEALTH PROVIDERS, INCLUDING COMMUNITY MENTAL HEALTH CENTERS, ARE A CRITICAL COMPONENT OF ACHIEVING POSITIVE OUTCOMES FOR INDIVIDUALS LIVING WITH MENTAL HEALTH, BEHAVIORAL HEALTH, AND SUBSTANCE USE DISORDERS AND HAVE LONG HELD AN ESSENTIAL ROLE IN ENGAGING CRIMINAL JUSTICE ENTITIES.

(3) THE GENERAL ASSEMBLY THEREFORE FINDS THAT IT IS CRITICAL TO CREATE A NETWORK OF PROFESSIONALS WHO CAN COMPREHENSIVELY BRIDGE THE CRIMINAL JUSTICE SYSTEM AND THE COMMUNITY BEHAVIORAL HEALTH SYSTEMS ACROSS THE STATE IN ORDER TO:

(a) PROMOTE POSITIVE OUTCOMES FOR INDIVIDUALS LIVING WITH MENTAL HEALTH OR CO-OCCURRING BEHAVIORAL HEALTH CONDITIONS;

(b) INFORM CRIMINAL JUSTICE ENTITIES ABOUT COMMUNITY TREATMENT OPTIONS; AND

(c) CONNECT INDIVIDUALS TO BEHAVIORAL HEALTH SERVICES.

(4) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT A STATEWIDE BEHAVIORAL HEALTH COURT LIAISON PROGRAM MUST PROVIDE A METHOD FOR COLLABORATION AND CONSULTATION AMONG BEHAVIORAL HEALTH PROVIDERS, DISTRICT ATTORNEYS, AND DEFENSE ATTORNEYS ABOUT AVAILABLE COMMUNITY-BASED BEHAVIORAL HEALTH SERVICES AND SUPPORTS, COMPETENCY EVALUATIONS, RESTORATION TO COMPETENCY SERVICES, AND OTHER RELEVANT DECISIONS AND ISSUES FACING INDIVIDUALS WITH MENTAL HEALTH OR CO-OCCURRING BEHAVIORAL HEALTH CONDITIONS WHO ARE INVOLVED WITH THE CRIMINAL JUSTICE SYSTEM, INCLUDING APPROPRIATENESS FOR COMMUNITY TREATMENT AND RESOURCE AVAILABILITY.

**16-11.9-202. Definitions.** AS USED IN THIS PART 2, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "BEHAVIORAL HEALTH CONDITION" REFERS TO MENTAL HEALTH AND CO-OCCURRING SUBSTANCE USE CONDITIONS THAT ARE INDICATIVE OF A POSSIBLE BEHAVIORAL HEALTH PROBLEM, CONCERN, OR DISORDER.

(2) "BEHAVIORAL HEALTH SERVICES" OR "BEHAVIORAL HEALTH SYSTEMS" MEANS SERVICE SYSTEMS THAT ENCOMPASS PREVENTION AND PROMOTION OF EMOTIONAL HEALTH, PREVENTION AND TREATMENT SERVICES FOR MENTAL HEALTH AND

SUBSTANCE USE CONDITIONS, AND RECOVERY SUPPORT.

(3) "COURT LIAISON" MEANS A PERSON WHO IS HIRED AS A DEDICATED BEHAVIORAL HEALTH COURT LIAISON FOR THE PROGRAM PURSUANT TO SECTION 16-11.9-203.

(4) "PROGRAM" MEANS THE STATEWIDE BEHAVIORAL HEALTH COURT LIAISON PROGRAM ESTABLISHED IN SECTION 16-11.9-203.

(5) "STATE COURT ADMINISTRATOR" MEANS THE STATE COURT ADMINISTRATOR ESTABLISHED PURSUANT TO SECTION 13-3-101.

**16-11.9-203. Statewide behavioral health court liaison program - established - purpose - administration.** (1) (a) THE STATEWIDE BEHAVIORAL HEALTH COURT LIAISON PROGRAM IS ESTABLISHED IN THE OFFICE OF THE STATE COURT ADMINISTRATOR. THE STATE COURT ADMINISTRATOR IS RESPONSIBLE FOR PROGRAM ADMINISTRATION, INCLUDING ENSURING THAT EACH JUDICIAL DISTRICT IMPLEMENTS A LOCAL PROGRAM DESIGN THAT IS ALIGNED WITH STATEWIDE GOALS AND LEGISLATIVE INTENT.

(b) THE PURPOSE OF THE PROGRAM IS TO IDENTIFY AND DEDICATE LOCAL BEHAVIORAL HEALTH PROFESSIONALS AS COURT LIAISONS IN EACH STATE JUDICIAL DISTRICT. THE COURT LIAISONS SHALL FACILITATE COMMUNICATION AND COLLABORATION BETWEEN JUDICIAL AND BEHAVIORAL HEALTH SYSTEMS.

(2) THE PROGRAM IS DESIGNED TO KEEP JUDGES, DISTRICT ATTORNEYS, AND DEFENSE ATTORNEYS INFORMED ABOUT AVAILABLE COMMUNITY-BASED BEHAVIORAL HEALTH SERVICES, INCLUDING SERVICES FOR DEFENDANTS WHO HAVE BEEN ORDERED TO UNDERGO A COMPETENCY EVALUATION OR RECEIVE COMPETENCY RESTORATION SERVICES PURSUANT TO ARTICLE 8.5 OF THIS TITLE 16. THE PROGRAM IS FURTHER DESIGNED TO PROMOTE POSITIVE OUTCOMES FOR INDIVIDUALS LIVING WITH MENTAL HEALTH OR CO-OCCURRING BEHAVIORAL HEALTH CONDITIONS.

(3) ON OR BEFORE OCTOBER 1, 2018, AND AS NECESSARY THEREAFTER, THE STATE COURT ADMINISTRATOR SHALL ESTABLISH PROGRAM PROCEDURES, TIMELINES, FUNDING GUIDELINES, AND ACCEPTABLE EXPENSES FOR THE DISTRIBUTION OF PROGRAM FUNDS TO JUDICIAL DISTRICTS. THE STATE COURT ADMINISTRATOR SHALL ALLOCATE PROGRAM FUNDING TO JUDICIAL DISTRICTS BASED ON CASE VOLUME, GEOGRAPHICAL COMPLEXITY, AND DENSITY OF NEED.

(4) THE STATE COURT ADMINISTRATOR SHALL IMPLEMENT CAPABILITIES WITHIN THE EXISTING STATEWIDE COURT DATA SYSTEM TO INDICATE BEHAVIORAL HEALTH CONDITIONS IN CASES BROUGHT TO THE COURTS.

(5) EACH JUDICIAL DISTRICT SHALL USE ALLOCATED PROGRAM MONEY TO PARTNER WITH COMMUNITY MENTAL HEALTH PROVIDERS, SUCH AS A COMMUNITY MENTAL HEALTH CENTER, THAT ARE ABLE TO PROVIDE A CONTINUUM OF COMMUNITY-BASED BEHAVIORAL HEALTH SERVICES IN THEIR REGION TO ACCOMPLISH THE PROGRAM GOALS SET FORTH IN SUBSECTIONS (1) AND (2) OF THIS SECTION. PROGRAM MONEY MAY BE USED FOR THE PURPOSES ESTABLISHED BY THE STATE COURT ADMINISTRATOR PURSUANT TO SUBSECTION (3) OF THIS SECTION,

INCLUDING BUT NOT LIMITED TO:

(a) PROGRAM IMPLEMENTATION AND START-UP COSTS DETERMINED NECESSARY AND APPROPRIATE BY THE STATE COURT ADMINISTRATOR;

(b) CONTRACTING FOR AN ADEQUATE NUMBER OF DEDICATED COURT LIAISONS RESPONSIBLE FOR THE DUTIES SET FORTH IN SECTION 16-11.9-204;

(c) PRIORITIZING, THROUGH THE COURT LIAISONS, CASES WHERE COMPETENCY TO PROCEED AND RESTORATION TO COMPETENCY ARE RAISED, AND PROVIDING NECESSARY SERVICES FOR SUCH CASES; AND

(d) OPERATIONAL FUNDING FOR COURT LIAISON ACTIVITIES AS DETERMINED NECESSARY AND APPROPRIATE BY THE STATE COURT ADMINISTRATOR.

**16-11.9-204. Behavioral health court liaisons - duties and responsibilities - consultation and collaboration.** (1) A COURT LIAISON HIRED PURSUANT TO THIS PART 2 HAS THE FOLLOWING DUTIES AND RESPONSIBILITIES:

(a) ACCESSING LOCAL COMMUNITY MENTAL HEALTH CENTER RECORDS AND APPOINTMENT SYSTEMS, AS ALLOWED BY STATE AND FEDERAL LAW, TO ASSESS TREATMENT HISTORY AND MAKE DIRECT CONNECTIONS TO SERVICES FOR A DEFENDANT WITH A BEHAVIORAL HEALTH CONDITION;

(b) SCREENING FOR BEHAVIORAL HEALTH CONDITIONS AND DETERMINING APPROPRIATE REFERRAL AND TREATMENT OPTIONS WHEN NECESSARY;

(c) USING THE BEHAVIORAL HEALTH INFORMATION FROM THE STATEWIDE COURT DATA SYSTEM, AS UPDATED PURSUANT TO SECTION 16-11.9-203 (4), TO MAKE A DETERMINATION REGARDING WHETHER A BEHAVIORAL HEALTH CONSULTATION WOULD BE BENEFICIAL IN ACHIEVING PROGRAM GOALS AND OBJECTIVES. IF THE COURT LIAISON OPERATING IN THE JUDICIAL DISTRICT DETERMINES THAT A CONSULTATION WOULD BE BENEFICIAL, THE COURT LIAISON SHALL CONSULT WITH EACH JUDICIAL OFFICER, DEFENSE ATTORNEY, AND DISTRICT ATTORNEY WORKING ON THE CASE, AND THE LIAISON MUST IDENTIFY, AT A MINIMUM, THE FOLLOWING INFORMATION:

(I) THE NATURE OF THE INDIVIDUAL'S BEHAVIORAL HEALTH CONDITION;

(II) WHETHER THE INDIVIDUAL HAS A READILY AVAILABLE HISTORY OF BEHAVIORAL HEALTH TREATMENT;

(III) WHETHER THE INDIVIDUAL IS A CURRENT OR PAST CLIENT OF A COMMUNITY MENTAL HEALTH CENTER IN THE JUDICIAL DISTRICT; AND

(IV) THE LOCAL, REGIONAL, OR STATE AVAILABILITY OF RESOURCES THAT THE INDIVIDUAL MAY NEED, INCLUDING BUT NOT LIMITED TO:

(A) OUTPATIENT AND OUT-OF-CUSTODY COMPETENCY EVALUATIONS OR COMPETENCY RESTORATION SERVICES;

(B) BEHAVIORAL HEALTH SERVICES OR PSYCHIATRIC SERVICES OR SUPPORTS; OR

(C) EMPLOYMENT, HOUSING, OR OTHER SOCIAL SUPPORTS.

(d) FACILITATING COMMUNICATION BETWEEN BEHAVIORAL HEALTH SYSTEMS AND CRIMINAL JUSTICE ENTITIES AND PROVIDING CONSULTATION TO CRIMINAL JUSTICE PERSONNEL REGARDING BEHAVIORAL HEALTH AND COMMUNITY TREATMENT OPTIONS;

(e) COORDINATING WITH JAIL-BASED BEHAVIORAL HEALTH PROVIDERS TO ENSURE CONTINUITY OF CARE AND SERVICE DELIVERY; AND

(f) IDENTIFYING EXISTING PROGRAMS AND RESOURCES THAT ARE ALREADY AVAILABLE IN THE COMMUNITY, INCLUDING BUT NOT LIMITED TO:

(I) CO-RESPONDER PROGRAMS THAT PAIR LOCAL COMMUNITY BEHAVIORAL HEALTH SPECIALISTS AND PROVIDERS WITH LAW ENFORCEMENT PERSONNEL;

(II) OTHER CRIMINAL JUSTICE DIVERSION PROGRAMS FOR INDIVIDUALS WITH BEHAVIORAL HEALTH CONDITIONS;

(III) COMMUNITY MENTAL HEALTH CENTERS AND OTHER LOCAL COMMUNITY BEHAVIORAL HEALTH PROVIDERS THAT RECEIVE STATE FUNDING THROUGH THE OFFICE OF BEHAVIORAL HEALTH FOR SERVICES SUCH AS:

(A) MENTAL HEALTH SERVICES FOR JUVENILE AND ADULT OFFENDERS;

(B) SUBSTANCE USE TREATMENT SERVICES FOR OFFENDERS AND INDIVIDUALS DIVERTED FROM THE CRIMINAL JUSTICE SYSTEM;

(C) TRANSITION SERVICES AND WRAPAROUND SERVICES FOR INDIVIDUALS WITH SERIOUS MENTAL HEALTH DISORDERS WHO ARE TRANSITIONING FROM A PSYCHIATRIC HOSPITAL OR WHO REQUIRE MORE INTENSIVE SERVICES IN THE COMMUNITY TO AVOID INSTITUTIONAL PLACEMENT; AND

(D) BEHAVIORAL HEALTH CRISIS RESPONSE SYSTEM SERVICES OR THE ASSOCIATED TELEPHONE HOTLINE; AND

(IV) BEHAVIORAL HEALTH SERVICES PROVIDED FOR MEDICAID CLIENTS THROUGH THE REGIONAL ACCOUNTABLE ENTITY THAT THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING CONTRACTS WITH FOR THE PROVISION OF SUCH SERVICES.

(2) IF A CONSULTATION OCCURS PURSUANT TO SUBSECTION (1)(c) OF THIS SECTION, THE STATEWIDE COURT DATA SYSTEM MUST INCLUDE A RECORD OF SUCH CONSULTATION ON THE INDIVIDUAL'S CASE RECORDS.

**16-11.9-205. Reporting requirements.** (1) THE STATE COURT ADMINISTRATOR SHALL COLLABORATE WITH EACH JUDICIAL JURISDICTION IN THE STATE AND EACH COURT LIAISON TO COLLECT AND ANALYZE DATA REGARDING THE WORK OF THE PROGRAM, INCLUDING DATA THAT DEMONSTRATES THE IMPACT OF CONSULTATION, UTILIZATION OF THE COURT LIAISONS BY JUDICIAL DISTRICTS, AND THE EFFICIENCY

OF THE PROGRAM IN PROMOTING THE LEGISLATIVE INTENT AND STATEWIDE GOALS AS SET FORTH IN THIS PART 2.

(2) NOTWITHSTANDING THE PROVISIONS OF SECTION 24-1-136, ON OR BEFORE OCTOBER 1, 2019, AND EACH OCTOBER 1 THEREAFTER, THE STATE COURT ADMINISTRATOR SHALL REPORT TO THE JOINT BUDGET COMMITTEE, OR ANY SUCCESSOR COMMITTEE, THE NUMBER OF CASES IN THE PAST YEAR FOR WHICH A BEHAVIORAL HEALTH CONDITION WAS IDENTIFIED AND RESULTED IN A CONSULTATION PURSUANT TO SECTION 16-11.9-204, AND OUTCOMES RELATED TO THE LEGISLATIVE INTENT AND STATEWIDE GOALS OF THE PROGRAM, AS SET FORTH IN THIS PART 2.

**SECTION 2. Appropriation.** For the 2018-19 state fiscal year, \$1,997,112 is appropriated to the judicial department. This appropriation is from the general fund and is based on an assumption that the department will require an additional 0.9 FTE. To implement this act, the department may use this appropriation for the statewide behavioral health court liaison program.

**SECTION 3. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 6, 2018